

DEPARTMENT OF THE NAVY
Office of the Secretary
1000 Navy Pentagon
Washington DC 20350-1000

SECNAVINST 1401.4
ASN(M&RA)
7 November 1996

SECNAV INSTRUCTION 1401.4

From: Secretary of the Navy
To: All Ships and Stations

Subj: USE OF SUBSTANTIATED AND
RELEVANT INFORMATION BY
GENERAL AND FLAG OFFICER
SELECTION BOARDS

Ref: (a) Title 10 United States Code §§
611-618 (NOTAL)
(b) DOD Directive 1320.12 of 4 Feb 92
(NOTAL)
(c) DOD Instruction 1320.4 of
14 Mar 95 (NOTAL)
(d) SECNAVINST 1420.1A of 8 Jan 91

1. Purpose. To authorize the Navy and Marine Corps to establish procedures, consistent with references (a) and (b), to provide substantiated, relevant information that could reasonably and materially affect the deliberations of selection boards considering officers for promotion to the grades of rear admiral (lower half) and brigadier general (O-7) and rear admiral and major general (O-8).

2. Background. Reference (a) assigns to the Secretary of the Navy responsibility and authority to convene selection boards to recommend military officers for promotion to the next higher grade. Reference (c) requires the Secretary of the Navy, when recommending that officers be nominated to general and flag officer (GFO) rank, to fully inform the Secretary of Defense of substantiated adverse findings or conclusions from systems of records.

3. Applicability. This instruction applies to the selection of commissioned officers of the active and reserve components of the Navy and Marine Corps for promotion to the grades of rear admiral (lower half) and brigadier general (O-7), and rear admiral and major general (O-8). Procedures established by the Services for identifying and proposing

substantiated and relevant information for consideration by selection boards shall apply to all eligible officers.

4. Policy. It is Department of the Navy policy to authorize the Services to establish procedures to make available to selection boards substantiated and relevant information that could reasonably and materially affect the deliberations of selection boards. Such procedures, if established by the Services, will:

a. Provide for the careful consideration, without prejudice or partiality, of all officers eligible for promotion to grades O-7 and O-8, ensuring that each officer has an opportunity to review and comment on any information regarding that officer furnished to the board.

b. Provide selection boards considering officers for promotion to grades O-7 and O-8 with all substantiated and relevant information that could reasonably and materially affect the deliberations of the selection board.

c. Conduct GFO selection boards in a manner which promotes the following objectives:

(1) Enhance the role of selection boards in the promotion process by making available to selection boards the substantiated and relevant information that would be considered later by the Secretary of the Navy, the Secretary of Defense, the President, and the Senate when an officer is nominated for promotion to the grades of O-7 and O-8.

(2) Improve the quality of GFO selection board recommendations by more fully informing those selection boards of substantiated and relevant information, not otherwise contained in an officer's Official Military Personnel File (OMPF), that could reasonably and materially affect selection board deliberations.



SECNAVINST 1401.4
7 November 1996

(3) Permit GFO selection boards, when informed of substantiated and relevant information on a particular officer, to consider that information; and, where warranted, to select another best and fully qualified officer. This will help preclude the loss of a GFO selection in that fiscal year by use of the removal process.

(4) Assure that, in all cases, officers will be afforded the opportunity to comment on or rebut adverse information before it is considered by selection boards.

5. Definitions

a. **Adverse Information.** Any adverse finding or conclusion from an officially documented investigation or inquiry maintained in the following systems of records: Naval Inspector General (NAVINSGEN) Reports; Naval Criminal Investigative Service (NCIS) Reports; Defense Clearance and Investigation Index (DCII); JAG Manual Investigations; Equal Employment Opportunity (EEO) files; officer misconduct files maintained by the Services; financial disclosure statements; and Department of Defense Inspector General Reports (DODIG). Nonpunitive letters and nonpunitive counselings are not maintained in systems of records and, for that reason, are not considered to be adverse information covered by this instruction.

b. **Adverse Information Screening Board.** Service procedures will provide for the screening of adverse information by a board of senior officials, chaired by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN(M&RA)) and consisting of the General Counsel of the Navy, a senior service representative in the grade of O-9 or above, and the Judge Advocate General of the Navy. The board members make recommendations and the ASN(M&RA) determines whether adverse information from official sources is substantiated and relevant, and whether such information will be made available to a selection board.

6. Procedures. If the Navy and Marine Corps elect to establish procedures to make available to

selection boards substantiated and relevant information that could reasonably and materially affect board deliberations, each Service will follow the procedures listed below.

a. No later than three months before the convening of the O-7 or eligible O-8 selection boards, the Service Chief will identify all officers by name and social security number, and forward the names to the Director, NCIS; the NAVINSGEN; and the Deputy Naval Inspector General for Marine Corps Matters (DNIGMC).

b. NCIS will compare the names of eligible officers against current and closed cases reported by NCIS and DCII. NAVINSGEN and DNIGMC will compare the names of eligible officers against current and closed cases under their cognizance. The Service Chief will identify any eligible officers for whom there exists adverse information in systems of records maintained by that Service. Where a closed investigation or report contains adverse information with respect to a particular officer, the record pertaining to that information will be forwarded to the Adverse Information Screening Board for review.

c. Following review by the Adverse Information Screening Board, the ASN(M&RA) will make an initial determination whether the information provided by the Service concerned, NCIS, NAVINSGEN, or DNIGMC constitutes substantiated relevant information that could reasonably and materially affect the deliberations of a selection board. If the ASN(M&RA) makes a negative determination, the information will not be considered further in the current selection process unless otherwise documented in the officer's record.

d. If the ASN(M&RA) makes an initial determination that the information provided by the Service, NCIS, NAVINSGEN, or DNIGMC constitutes substantiated, relevant information that could reasonably and materially affect the deliberations of a selection board, a separate executive summary of the relevant facts will be prepared in the case of each officer using the

format prescribed in reference (c). Copies of the executive summary and all materials considered by the Adverse Information Screening Board will be forwarded to the officer concerned for response. If the classification of the information precludes giving the officer full access, the officer will be provided a summary to the maximum extent practicable.

e. Following a response, if any, by the officer concerned, the Adverse Information Screening Board will again review the case and recommend to the ASN(M&RA) whether the summary and the response should be made available to the selection board. The summary of the information and the response will be made available to the selection board if the ASN(M&RA) determines that the information is substantiated, relevant, and of a nature that could reasonably and materially affect the deliberations of the selection board. In making this determination, the ASN(M&RA) will consider the severity of the offense or failure, the grade of the officer at the time, and the age of the incident reported. As a general rule, failures and offenses over 10 years old will not be considered relevant unless they indicate a pattern of conduct or behavior.

f. The determination to provide information to a selection board is not applicable to subsequent selection boards, unless the information has been properly placed in the OMPF of the officer concerned or a new determination is made after compliance with the above procedures and the requirements of references (a) through (d).

7. Consideration by Selection Boards

a. Service regulations will require that, if adverse information has been made available to a selection board concerning a particular officer, each member of the selection board will consider such information before recommending that officer for promotion.

b. Adverse information summaries may not be used for any purpose other than those specifically authorized by this instruction.

8. Consideration by the Secretary of the Navy

a. When a selection board considers adverse information and recommends an officer for promotion, the summary and officer's response will be forwarded to the Secretary of the Navy with the selection board's report.

b. The Secretary will consider such information, as well as any other information available to him, in determining whether to recommend to the Secretary of Defense that the officer concerned be promoted.

9. **Service Regulations.** Service regulations implementing this instruction are being forwarded to the ASN(M&RA) for approval and coordination with the Secretary of Defense.

10. **Action.** The Navy and Marine Corps shall take such action as is expressed or implicit to ensure compliance with this instruction.

JOHN H. DALTON

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